

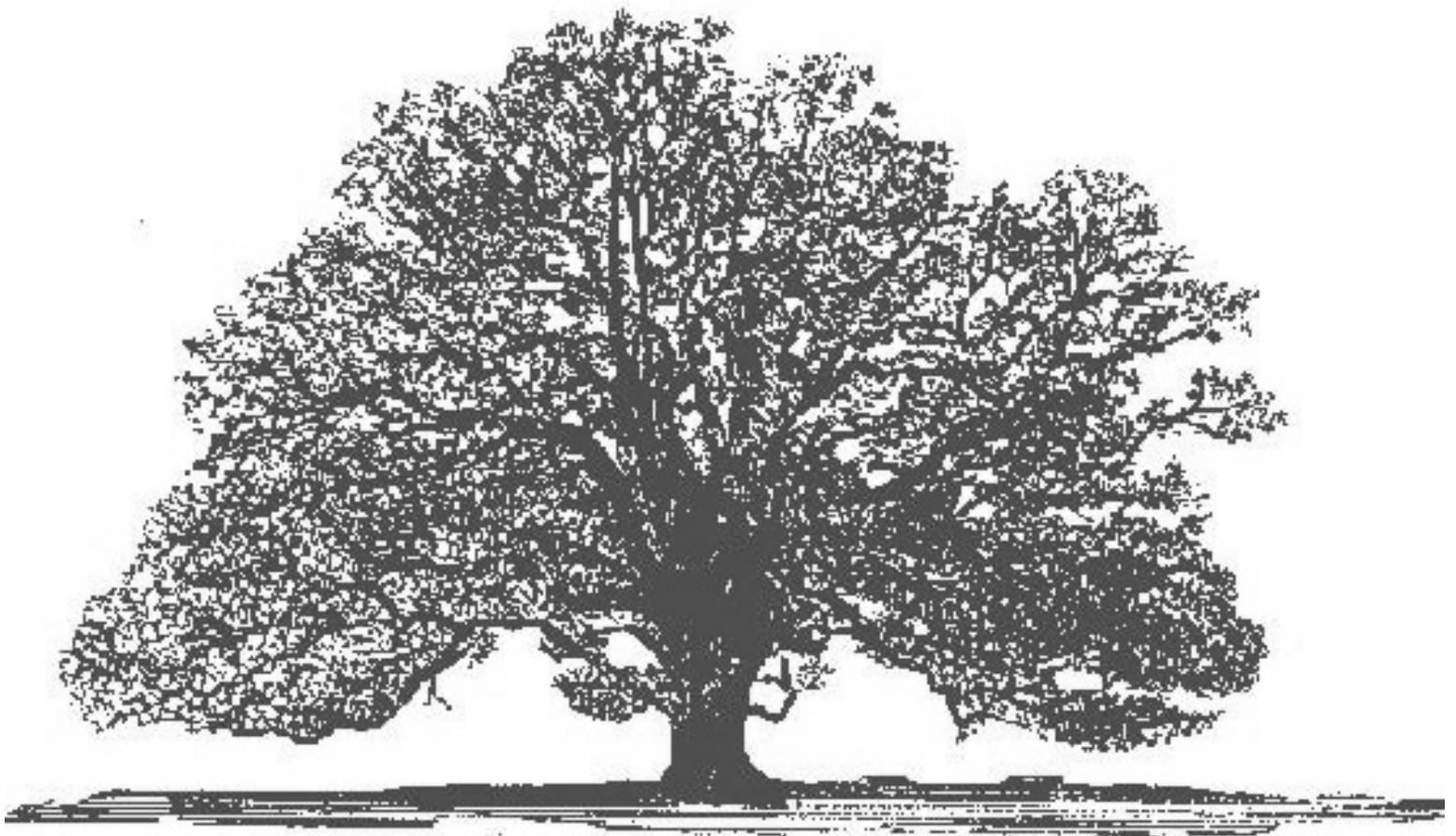
Green Acres Program

New Jersey Department of Environmental Protection

TAX EXEMPTION PROGRAM

PROCEDURAL GUIDE

**INFORMATION FOR APPLICANTS FOR REAL PROPERTY TAX EXEMPTION ON LANDS OWNED BY
CERTAIN NONPROFIT CORPORATIONS AND USED FOR PUBLIC RECREATION AND / OR
CONSERVATION PURPOSES PURSUANT TO N.J.S.A. 54:4-3.63 ET SEQ**



**State of New Jersey
Department of Environmental Protection**

**James E. McGreevey, Governor
Bradley M. Campbell, Commissioner**

**N.J.S.A. 54:4-3.63 et seq.
P.L. 1974, Chapter 167**

54:4-3.63. Legislative findings and declaration

The Legislature hereby finds and declares that natural open space areas for public recreation and conservation purposes are rapidly diminishing; that public funds for the acquisition and maintenance of public open space should be supplemented by private individuals and conservation organizations; and that it is therefore in the public interest to encourage the dedication of privately-owned open space to public use and enjoyment as provided for in this act.

The Commissioner may consult with the Natural Areas Council in making a determination as to whether the granting of a certificate for the real property covered by the application would serve the public interest.

54:4-3.64. Land for conservation or recreation purposes owned by nonprofit corporation or organization; certification of qualification

All lands and the improvements thereon actually and exclusively used for conservation or recreation purposes, owned and maintained or operated for the benefit of the public by a nonprofit corporation or organization organized under the laws of this or any State of the United States authorized to carry out the purposes on account of which the exemption is claimed and which is qualified for exemption from Federal Income Tax under Section 501(c) (3) of the internal revenue Code shall be exempt from taxation; provided, however, that the Commissioner of the Department of Environmental Protection certifies that the real property and the property owner are qualified under the terms of this act.

54:4-3.65. Application; filing; contents

Each owner of real property claiming the tax exemption provided by this act shall file the original and one copy of its initial application for certification with the Commissioner of the Department of Environmental Protection on or before August 1 of the pretax year on such forms as the commissioner shall prescribe. Such application shall include, but not be limited to, the following information: the taxing district in which the real property is located, the block and lot number of the property, a physical description of the land and improvements, a plan for the use and preservation of the property, a statement of the uses which may be made of the property by the public, and a statement of the terms under which the public may gain access to and enjoy the use of such lands. The application shall be accompanied by documentation to establish the organization and purposes of the property owner and its entitlement to exemption from Federal income tax under Section 501(c)(3) of the Internal Revenue Code.

54:4-3.65. Certification; procedure; qualifications

The Commissioner of the Department of Environmental Protection may certify that the real property is maintained or operated for the benefit of the public, only after a public hearing on the application has been held, that the real property for which an application for tax exemption is made is open to all on an equal basis and that a tax exemption for such property would be in the public interest. Restrictions on the use of such real property by the public may be permitted if the commissioner finds that they are necessary for proper maintenance and improvement of the property or that significant natural

features of the land may be adversely affected by unrestricted access. The commissioner may authorize that reasonable charges may be made for entrance onto or use of such real property. The

54:4-3.67. Annual certification of qualification

The Commissioner of the Department of Environmental Protection shall on or before September 15 of the pretax year certify that a property owner and the real property for which an exemption is claimed are qualified under the terms of this act and that a tax exemption would be in the public interest. The commissioner shall forthwith deliver such certification to the property owner and the tax assessor of the taxing district in which the real property is located

54:4-3.68. Time for filing statements of exemption; proof of right for continuance of exemption

The tax exemption established by this act shall be granted or revoked pursuant to the provisions of P.L. 1951, c.135(C.54:4-4.4), except as otherwise provided herein.

54:4-3.69. Use of property for other than conservation or recreation purposes; roll-back taxes

When real property which is exempted under the provisions of this act is applied to a use other than for conservation or recreation purposes, it shall be subject to taxes, hereinafter referred to as roll-back taxes, in an amount equal to the taxes which would have been payable on such property has it not been exempt, in the current tax year (the year of sale or change in use) and in each of the 2-tax years immediately preceding in which the real property was exempt, with interest compounded at 8% annually; provided, however, that no such roll-back taxes shall be payable when the property is sold, leased, donated or otherwise conveyed to a public agency, nonprofit corporation or organization.

64:43.70. Administrative rules

The Commissioner of the Department of Environmental Protection in consultation with the Director of the Division of Taxation shall have the power to adopt, amend and repeal administrative rules to effectuate the purposes of this act.

54:43.71. Severability

If the provisions of any section or clause of this act or any administrative rule or order adopted hereunder or the application thereof to any person shall be judged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered, and shall not affect or invalidate the remainder of any provision of any section or clause of this act or any administrative rule or order adopted hereunder or the application of any part thereof to any person or circumstance and to this end, the provisions of each section and clause of this act and the administrative rule or order are hereby declared to be severable.

**RULES ON CERTIFICATION OF
ELIGIBILITY FOR EXEMPTION FROM
TAXATION ON REAL PROPERTY OWNED
BY CERTAIN NONPROFIT CORPORATIONS**

**SUBTITLE G. OFFICE OF GREEN ACRES AND
OUTDOOR RECREATION**

**CHAPTER 35. REAL PROPERTY TAXATION
SUBCHAPTER 1. GENERAL PROVISIONS**

7:35.1.1 Purpose and scope

In order to help satisfy the acute need in New Jersey for natural open space areas for public recreation and conservation purposes, the Legislature has found that it is "in the public interest to encourage the dedication of privately-owned open space to public use and enjoyment." (N.J.S.A. 54:4-3.63 et seq.). These rules and regulations are supplemental to and not in derogation of existing tax laws:

7:35-1.2 Definitions

The following words and terms, when used in this Chapter, shall have the following meanings, unless the content clearly indicates otherwise.

"Application" means a request for certification of tax exemption on one contiguous land holding, or several holdings intended for similar use.

"Certification of tax exemption" means establishment by the Commissioner of eligibility for exemption pursuant to the provisions of P.L. 1951, c.135 (N.J.S.A. 54:4-4.4).

"Commissioner" means the Commissioner of the New Jersey Department of Environmental Protection.

"Nonprofit organization" means those organizations or corporations who have applied for and received a determination letter under Section 501 (c)(3) of the Federal Internal Revenue Code.

"Pretax year" means the year in which the application is submitted.

"Public recreation and conservation purposes" means the use of lands for parks, natural and historic areas, nature education, forests, camping, fishing, water reserve, wildlife preservation, hunting, boating, recreation centers, winter sports and similar uses for public recreation and conservation of natural resources.

"Public use" means a use or right of use available to the general public or some portion thereof for conservation or recreation purposes. Such use, and any limits thereon, shall be based on the uses best suited to the land, the capacity of the facility and the public benefits or advantages to be derived therefrom.

"Roll-back taxes" means taxes in the amount equal to the taxes which would have been payable on the property had it not been exempt in the current tax year (the year of sale or change in use), and in each of the two tax years immediately preceding in which the real property was exempt, with interest compounded at 8 per cent annually.

7:35-1.3 Eligible organizations

Any nonprofit organization who qualifies for exemption from Federal Income Tax under Section 501(c)(3) of the Internal Revenue Code and who owns natural open space land in the State of New Jersey is eligible to make application under this program.

7:35-1.4 Eligible real property

(a) Real property must meet the following qualifications in order to gain tax exemption:

1. It must include a natural open space area which is not dominated by buildings or other structures;
2. It must be open for public use on an equal basis;
3. Tax exemption must be determined by the Commissioner to be in the public interest;
4. Fees charged for entrance onto or use of the real property must be determined by the Commissioner to be non-discriminatory fees consistent with the cost of maintenance or improvement of the property;
5. Restrictions on the use of the real property by the public must be determined by the

Commissioner to be necessary for proper maintenance and improvement of the property or because significant natural features of the land may be adversely affected by unrestricted access.

7:35-1.5 Application procedures

(a) An applicant must submit to the Department two copies of the following documents by August 1 of the pretax year.

1. The Department's application form GAR,031;
2. The Federal Internal Revenue Service 501 (c)(3) letter of ruling determination;
3. Statement by counsel or other competent

declarer attesting to applicant's ownership of the specific property;

4 The property tax bill(s) for the pretax year for all property for which application is being made;

5. The tax map(s) for all property for which application is being made and a municipal map showing the location of the property;

6. The State form I.S. Rev. June, 1970 (the initial statement for Exemption of Real Property from Taxation pursuant to N.J.S.A. 54:4-4.4);

7. A copy of the applicant's certificate of incorporation, articles of association or the charter and bylaws.

(b) The Department has the right to enter upon the land for the purposes of a site inspection after application has been made.

(c) A public hearing will be held on the first Thursday after the first Monday in September of the pretax year or at such time as designated by the Commissioner. The Commissioner will advertise the time and location of the hearing in an official advertising newspaper of the area in which the property is located, at the expense of the applicant. The advertising cost is payable in advance of the hearing.

d) Prior to the hearing two copies of each item submitted in application will be sent to the local tax assessor. A copy of the Department of Environmental Protection letter of notification of receipt will be sent to the applicant and to the applicable county board of taxation, with original to local tax assessor.

(e) On or before September 15 of the pretax year the Commissioner will make a declaration of certification and shall notify the applicant, the local tax assessor, and the county board of taxation. The Commissioner may consult with the Natural Areas Council and others prior to making a determination.

(f) Not later than July 1 of every third-calendar year succeeding the year of certification the applicant shall submit a form GAR-032 "Application for re-certification of exemption from Real Property Taxes" and form F.S. Rev. June 1970 "Further Statement" informing the Department of current land use.

7:35-1.6 Change of status

When real property which is exempted under the provisions of this Act is applied to a use other than public recreation and conservation purposes, or is sold to an organization not qualifying for tax exemption under the Federal Internal Revenue Service Section 501(c)(3), then the applicant shall notify the Department. That property shall be subject to roll back taxes.

7:35-1.7 Save harmless liability

The nonprofit organization, its servants, licensees, agents or invitees shall accept all liability arising out of the use of the certified property.

7:35-1.8 Amendments

The Commissioner, in consultation with the Director of the Division of Taxation, shall have the power to adopt, amend and repeal administrative rules to effectuate the purposes of this Act.

Questions should be addressed to:

**New Jersey Department of Environmental Protection
Green Acres Program
P.O. Box 412
Trenton, NJ 08625-0412
(609) 984-0500**